

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION
No. 2:15-CV-00042-BO

RED WOLF COALITION, <i>et al.</i> ,)
)
Plaintiffs,)
v.)
)
THE UNITED STATES FISH and)
WILDLIFE SERVICE, <i>et al.</i> ,)
)
Defendants.)

JOINT STIPULATION FOR ATTORNEYS' FEES AND COSTS

This Joint Stipulation for Attorneys' Fees and Costs ("Fee Stipulation") is entered into by and between Plaintiffs Red Wolf Coalition, Defenders of Wildlife, and Animal Welfare Institute (collectively, "Plaintiffs") and Defendants the United States Fish and Wildlife Service ("Service"); Margaret Everson,¹ in her official capacity as Principal Deputy Director exercising the authority of the Director of the Service; and Leopoldo Miranda,² in his official capacity as Regional Director of the Service's Southeast Region (collectively, "Defendants") to resolve Plaintiffs' claim for attorneys' fees and costs in the above-captioned case.

WHEREAS, in November 2015, Plaintiffs filed a complaint in this matter alleging the Service violated the Endangered Species Act ("ESA") and the National Environmental Policy

¹ Margaret Everson is substituted for Jim Kurth, former Acting Director, pursuant to Federal Rule of Civil Procedure 25(d).

² Leopoldo Miranda is substituted for Mike Oetker, former Acting Regional Director, pursuant to Federal Rule of Civil Procedure 25(d).

Act (“NEPA”) in connection with its management of the nonessential experimental population of red wolves in eastern North Carolina (ECF 1, 3);

WHEREAS, Plaintiffs filed a motion for preliminary injunction on June 20, 2016 (ECF 31), which was granted September 28, 2016 (ECF 63);

WHEREAS, Plaintiffs and Defendants (“the Parties”) filed cross-motions for summary judgment (ECF 79-83, 85-94);

WHEREAS, the Court issued an Order on November 4, 2018 (ECF 101), and a Judgment on November 5, 2018 (ECF 102), granting Plaintiffs summary judgment on five of their six claims, and granting Defendants summary judgment on the remaining claim;

WHEREAS, the Court made permanent its previous preliminary injunction and awarded Plaintiffs declaratory relief on their granted claims (ECF 101-102);

WHEREAS, Plaintiffs filed a Consent Motion for Combined Attorneys’ Fees Petition and Extension of Time on January 15, 2019 (ECF 103), which the Court granted on January 17, 2019 (ECF 104);

WHEREAS, Plaintiffs filed a Motion for Attorney Fees on February 4, 2019 (“Fee Motion”) (ECF 105-106);

WHEREAS, the Parties have moved to extend Defendants’ deadline to respond to Plaintiffs’ Fee Motion to provide the Parties with sufficient time to engage in settlement discussions (ECF 107, 111);

WHEREAS, the Court granted the Parties’ motions regarding fees, and Defendants’ response to Plaintiffs’ Fee Motion is currently due May 6, 2019 (ECF 108, 112);

WHEREAS, the Parties have negotiated a settlement of Plaintiffs' claims for attorneys' fees, costs, and other expenses that they consider to be a just, fair, adequate, and equitable resolution of Plaintiffs' Fee Motion;

WHEREAS, the Parties agree that settlement of attorneys' fees and costs in this manner is in the public interest and is an appropriate way to resolve the dispute between them; and

WHEREAS, the Parties enter into this Fee Stipulation without any admission of fact or law, or waiver of any claims or defenses, factual or legal.

NOW, THEREFORE, IT IS STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Defendants agree to pay and Plaintiffs agree to accept \$620,000 in full settlement of all Plaintiffs' claims under any authority for attorneys' fees, costs, and expenses in the above-captioned litigation, including all claims for attorneys' fees, costs, and expenses incurred in pursuit of Plaintiffs' claims for such fees, costs, and expenses through and including the date of the Court order approving this Fee Stipulation ("Fee Claims").

2. Defendants agree to submit all necessary paperwork to effectuate payment to the appropriate office within ten business days of either receipt of the signed Court order approving this Fee Stipulation or when Plaintiffs provide the necessary information to facilitate payment, whichever date is later.

3. Payment of \$620,000 will be made by electronic funds transfer to the client trust account of Plaintiffs' attorneys, Southern Environmental Law Center, 601 W. Rosemary Street, Suite 220; Chapel Hill, NC 27516-2356. Plaintiffs' attorneys with Southern Environmental Law Center agree to accept payment of attorneys' fees on Plaintiffs' behalf. Counsel for Plaintiffs

agree to send confirmation of the receipt of the payment to counsel for Defendants within fourteen days of such payment.

4. Plaintiffs agree to provide to counsel for Defendants within one day after the effective date of this Fee Stipulation the following information necessary for Defendants to process payment: the Southern Environmental Law Center's account name; bank account number; the account type; the Automated Clearing House ("ACH") routing number (for ACH payment) or the American Banking Association ("ABA") routing number for FedWire payment; the financial institution's name, city, and state; the bank routing transit number ("RTN"); and tax identification number. Plaintiffs and Plaintiffs' counsel agree to hold Defendants and the United States harmless for any loss caused by following this authorization and direction, if any loss should occur.

5. The Parties agree that this Fee Stipulation was negotiated in good faith and that this Fee Stipulation constitutes a resolution of claims that were denied and disputed by the Parties. By entering into this Fee Stipulation, Defendants do not waive any right to contest any aspect of attorneys' fees, costs, or expenses, including hourly rates, claimed by Plaintiffs or Plaintiffs' counsel in future litigation. This Fee Stipulation has no precedential value and shall not be used as evidence in any other litigation.

6. No provision of this Fee Stipulation shall be interpreted as or constitute a commitment or requirement that Defendants obligate or pay funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other law or regulation.

7. Because this Fee Stipulation resolves all of Plaintiffs' Fee Claims, Plaintiffs hereby withdraw their Fee Motion and release Defendants from the Fee Claims.

8. This Fee Stipulation contains the entire agreement between the Parties, and all previous understandings, agreements, and communications prior to the date hereof, whether express or implied, oral or written, relating to the subject matter of this Fee Stipulation, are fully and completely extinguished and superseded by this Fee Stipulation.

9. The undersigned representatives of the Parties certify that they are fully authorized by the Party or Parties whom they represent to enter into the terms and conditions of this Fee Stipulation and to legally bind them to it.

10. The provisions of this Fee Stipulation shall apply to and be binding upon each of the Parties including, but not limited to, their officers, directors, servants, employees, successors, and assigns.

11. In an electronic mail message dated April 30, 2019, counsel for Plaintiffs Ramona H. McGee authorized Lesley Lawrence-Hammer, counsel for Defendants, to sign this Fee Stipulation and enter it in the CM/ECF system.

IT IS SO STIPULATED.

Dated: April 30, 2019

Respectfully submitted,

JEAN E. WILLIAMS, Deputy Assistant Attorney General
U.S. Department of Justice
Environment & Natural Resources Division
Wildlife & Marine Resources Section
MEREDITH L. FLAX, Assistant Chief

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2019, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of this filing to the attorneys of record.

/s/ Lesley Lawrence-Hammer
Lesley Lawrence-Hammer